

1                                    **BEFORE THE ARIZONA MEDICAL BOARD**

2  
3    In the Matter of

4    **HUMBERTO ROSADO, M.D.**

5    Holder of License No. 19978  
6    For the Practice of Allopathic Medicine  
   In the State of Arizona.

Case No. MD-07-0730A

**CONSENT AGREEMENT FOR  
ORDER OF STAYED REVOCATION,  
PRACTICE RESTRICTION, AND  
PROBATION**

7                                    **CONSENT AGREEMENT**

8            By mutual agreement and understanding between the Arizona Medical Board  
9    ("Board") and Humberto Rosado, M.D. ("Respondent"), the parties agreed to the following  
10   disposition of this matter.

11           1.    Respondent has read and understands this Consent Agreement and the  
12   stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement").  
13   Respondent acknowledges that he has the right to consult with legal counsel regarding  
14   this matter and has done so or chooses not to do so.

15           2.    By entering into this Consent Agreement, Respondent voluntarily  
16   relinquishes any rights to a hearing or judicial review in state or federal court on the  
17   matters alleged, or to challenge this Consent Agreement in its entirety as issued by the  
18   Board, and waives any other cause of action related thereto or arising from said Consent  
19   Agreement.

20           3.    This Consent Agreement is not effective until approved by the Board and  
21   signed by its Executive Director.

22           4.    The Board may adopt this Consent Agreement or any part thereof. This  
23   Consent Agreement, or any part thereof, may be considered in any future disciplinary  
24   action against Respondent.  
25

1        5. This Consent Agreement does not constitute a dismissal or resolution of other  
2 matters currently pending before the Board, if any, and does not constitute any waiver,  
3 express or implied, of the Board's statutory authority or jurisdiction regarding any other  
4 pending or future investigation, action or proceeding. The acceptance of this Consent  
5 Agreement does not preclude any other agency, subdivision or officer of this State from  
6 instituting other civil or criminal proceedings with respect to the conduct that is the subject  
7 of this Consent Agreement.

8        6. All admissions made by Respondent are solely for final disposition of this  
9 matter and any subsequent related administrative proceedings or civil litigation involving  
10 the Board and Respondent. Therefore, said admissions by Respondent are not intended  
11 or made for any other use, such as in the context of another state or federal government  
12 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or  
13 any other state or federal court.

14        7. Upon signing this agreement, and returning this document (or a copy thereof) to  
15 the Board's Executive Director, Respondent may not revoke the acceptance of the  
16 Consent Agreement. Respondent may not make any modifications to the document. Any  
17 modifications to this original document are ineffective and void unless mutually approved  
18 by the parties.

19        8. If the Board does not adopt this Consent Agreement, Respondent will not  
20 assert as a defense that the Board's consideration of this Consent Agreement constitutes  
21 bias, prejudice, prejudgment or other similar defense.

22        9. This Consent Agreement, once approved and signed, is a public record that will  
23 be publicly disseminated as a formal action of the Board and will be reported to the  
24 National Practitioner Data Bank and to the Arizona Medical Board's website.

1        10. If any part of the Consent Agreement is later declared void or otherwise  
2 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in  
3 force and effect.

4        11. Any violation of this Consent Agreement constitutes unprofessional conduct  
5 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("violating a formal order,  
6 probation, consent agreement or stipulation issued or entered into by the board or its  
7 executive director under this chapter") and 32-1451.

8        12. *Respondent has read and understands the condition(s) of probation.*

9  
10 Humberto Rosado  
11 HUMBERTO ROSADO, M.D.

DATED: 8/14/08

**FINDINGS OF FACT**

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 19978 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-07-0730A after receiving a complaint from a forty-three year-old female patient ("BR") alleging Respondent inappropriately touched her.

4. Respondent contacted BR to schedule an after hours appointment to discuss x-ray results. When BR arrived for her appointment she recognized that she was the only patient. Respondent brought BR into an examination room, informed her that she needed a back massage and instructed her to unzip her pants and lay over the exam table. During the massage, which lasted fifteen minutes, Respondent pulled BR's buttocks toward his pelvic area.

5. On August 15, 2007, Respondent presented to the Board for an investigational interview and denied the allegations made by BR. Following the interview, Respondent was ordered to undergo a psychosexual evaluation at the Sexual Recovery Institute (SRI). The SRI report of September 10, 2007 found Respondent should not practice medicine under any circumstances. Respondent was diagnosed with adjustment disorder and there was concern of Respondent's mental and emotional status.

6. On September 17, 2007, Respondent underwent a psychiatric evaluation and was diagnosed with major depressive disorder with associated anxiety. The psychiatrist recommended a new psychosexual evaluation and polygraph test. The psychiatrist also recommended reinstating Respondent's medical license with restrictions to provide medical care and treatment to male patients, and geriatric female patients with

1 a female chaperone and to hire another physician or nurse practitioner to see all other  
2 female patients.

3 7. Following review of the SRI report of September 10, 2007, Board Staff  
4 ordered Respondent to undergo another psychosexual evaluation. The evaluator found  
5 that Respondent was not credible. The Axis I diagnosis was Occupational Problem  
6 (Professional Sexual Misconduct). The evaluator also recommended an intensive  
7 treatment program to address sexual misconduct and boundary issues and to enter into a  
8 monitoring agreement with the Board.

9 8. On November 12, 2007, Respondent underwent treatment at the  
10 Professional Renewal Center (PRC). While at PRC, Respondent admitted engaging in  
11 repeated boundary violations. The Axis I diagnosis upon discharge was adjustment  
12 disorder with anxiety; phase of life problem; occupational problem and dysthymia. PRC  
13 recommended Respondent cooperate with the Board's monitoring program; re-enter the  
14 medical practice; complete a professional boundaries course; return to PRC in four  
15 months for an update on aftercare recommendations and have a female chaperone  
16 present when providing services to female patients.

17 9. On February 27, 2008, during a follow up interview with Staff, Respondent  
18 admitted that he was not honest during his first interview on August 15, 2007. Respondent  
19 stated that BR's account of what happened in his office was true.

#### 20 CONCLUSIONS OF LAW

21 1. The Board possesses jurisdiction over the subject matter hereof and over  
22 Respondent.

23 2. The conduct and circumstances described above constitute unprofessional  
24 conduct pursuant to A.R.S. § 32-1401 (27)(z) ("[e]ngaging in sexual conduct with a current  
25 patient or with a former patient within six months after the last medical consultation unless

1 the patient was the licensee's spouse at the time of the contact or, immediately preceding  
2 the physician-patient relationship, was in a dating or engagement relationship with  
3 licensee, for purposes of this subdivision, "Sexual Conduct" includes: (i) Engaging in or  
4 soliciting sexual relationships, whether consensual or nonconsensual. (ii) Making sexual  
5 advances, requesting sexual favors or engaging in other verbal conduct or physical  
6 contact of a sexual nature. (iii) Intentionally viewing a completely or partially disrobed  
7 patient in the course of treatment if the viewing is not related to patient diagnosis or  
8 treatment under current practice standards.") and A.R.S. § 32-1401(27)(jj) ("[k]nowingly  
9 making a false or misleading statement to the board or on a form required by the board or  
10 in a written correspondence, including attachments, with the board.").

#### 11 **ORDER**

12 IT IS HEREBY ORDERED THAT License Number 19978, issued to Humberto  
13 Rosado, M.D. ("Respondent") for the practice of allopathic medicine in the State of  
14 Arizona, is revoked. However, the revocation is stayed. Respondent's practice is  
15 restricted, and Respondent is placed on probation for a period of ten years subject to the  
16 terms and conditions enumerated below. After five years of the probationary period,  
17 Respondent may petition the Board to have the restrictions and remaining five years of  
18 probationary period terminated. Upon any alleged violation of a probationary term,  
19 Respondent shall be given notice and an opportunity to be heard on the alleged violations.  
20 Thereafter, the Board shall terminate the probation and revoke Respondent's license. If an  
21 investigation involving an alleged violation of the probation is initiated, but not resolved  
22 prior to the termination of the probation, the Board shall have continuing jurisdiction and  
23 the period of probation shall extend until the matter is final.

24 1. Respondent's practice is restricted in that he shall not work more than 40  
25 hours per week, this includes being on call status. Respondent shall submit notarized

1 quarterly reports to the Board affirming that Respondent has complied with this condition.  
2 The reports must be submitted on or before the 15<sup>th</sup> day of March, June, September and  
3 December, beginning September 2008.

4       2.       Respondent shall immediately obtain psychotherapy treatment. The treating  
5 psychotherapist must be approved by Board Staff. Respondent shall comply with the  
6 psychotherapist's recommendations for continuing care and treatment. Respondent shall  
7 instruct the psychotherapist to submit quarterly written reports to the Board regarding  
8 diagnosis, prognosis, and recommendations for continuing care and treatment. The  
9 reports must be submitted on or before the 15<sup>th</sup> day of March, June, September and  
10 December of each year, beginning September 2008. Respondent shall provide the  
11 psychotherapist with a copy of this Order. Respondent shall pay the expenses of all the  
12 psychotherapy and is responsible for paying for the preparation of the quarterly reports.

13       3.       Respondent shall within four months after the date of the final Order present  
14 to PRC for a minimum of two weeks for a re-evaluation. Respondent shall instruct PRC to  
15 submit the written report to the Board regarding diagnosis, prognosis, and  
16 recommendations for continuing care and treatment. Respondent shall pay the expenses  
17 of the evaluation and is responsible for paying for the preparation of the reports.

18       4.       Respondent shall have a third party present, whose view is unencumbered,  
19 while examining, treating or providing services to female patients in all settings including  
20 but not limited to office, hospital, and clinic. **The third party must be a female licensed**  
21 **healthcare provider** (i.e. physician assistant, registered nurse, or licensed practical  
22 nurse) employed by Respondent, or a hospital or clinic, and may not be a representative  
23 or relative who accompanied the patient. Respondent shall instruct the third party to  
24 document her presence by signing, dating and legibly printing her name on each patient's  
25 chart at the time of the examination. Respondent shall instruct the third party to

1 immediately report any inappropriate behavior to Respondent and the Board. Board Staff  
2 may perform random periodic reviews to ensure compliance with this order.

3 5. Respondent shall participate in Board approved group therapy for sexual  
4 offenders.

5 6. Respondent shall submit to polygraph testing if/when recommended by  
6 therapists.

7 7. Respondent shall, within six months of the effective date of this Order, obtain  
8 **twenty hours** of Board Staff pre-approved Category I Continuing Medical Education  
9 (CME) in **professional boundaries** and provide Board Staff with a certificate of  
10 completion as satisfactory proof of attendance. The CME hours shall be in addition to the  
11 hours required for the biennial renewal of medical license.

12 8. Respondent shall provide a copy of this Order to his staff to place them on  
13 notice of the issues surrounding his conduct, and inform his staff of the necessity of  
14 reporting any future misconduct to the Board.

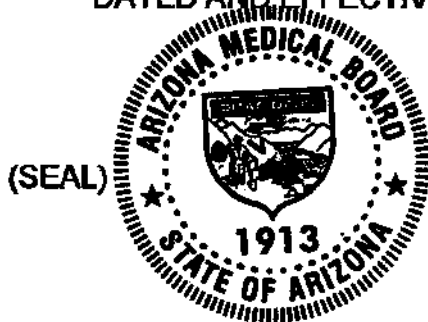
15 9. Respondent shall obey all state, federal and local laws, all rules governing  
16 the practice of medicine in Arizona, and remain in full compliance with any court order  
17 criminal probation, payments and other orders.

18 10. In the event Respondent should leave Arizona to reside or practice outside  
19 the State or for any reason should Respondent stop practicing medicine in Arizona,  
20 Respondent shall notify the Executive Director in writing within ten days of departure and  
21 return or the dates of non-practice within Arizona. Non-practice is defined as any period of  
22 time exceeding thirty days during which Respondent is not engaging in the practice of  
23 medicine. Periods of temporary or permanent residence or practice outside Arizona or of  
24 non-practice within Arizona, will not apply to the reduction of the probationary period.

25 11. This Order is the final disposition of case number MD-07-0730A.



1 DATED AND EFFECTIVE this 20<sup>th</sup> day of August, 2008.



ARIZONA MEDICAL BOARD

5 By

Lisa S. Wynn

6  
7 Lisa S. Wynn  
Executive Director

8 ORIGINAL of the foregoing filed  
9 this 20<sup>th</sup> day of August, 2008 with:

10 Arizona Medical Board  
11 9545 E. Doubletree Ranch Road  
12 Scottsdale, AZ 85258

13 EXECUTED COPY of the foregoing mailed  
14 this 20<sup>th</sup> day of August, 2008 to:

15 Daniel P. Jantsch  
16 Olson, Jantsch, & Bakker, P.A.  
17 PO Box 47250  
18 Phoenix, Arizona 85068-7250

19 EXECUTED COPY of the foregoing mailed  
20 this 20<sup>th</sup> day of August, 2008 to:

21 Humberto Rosado, M.D.  
22 Address of Record

23 Chris Bump  
24 Investigational Review  
25